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23 UNITED STATES DISTRICT COURT
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25 FOR THE DISTRICT OF NEVADA
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1 JAMES V. DEPPOLETO JR.,

2 Plaintiff,

3 v.

4 TAKEOVER INDUSTRIES
5 INCORPORATED, *et al.*

6 Defendant.

CASE NO. 2:22-CV-2013

**SECOND STIPULATION FOR EXTENSION
OF TIME**

**SPECIAL SCHEDULING REVIEW
REQUESTED**

SECOND STIPULATION FOR EXTENSION OF TIME

8 Plaintiff, James V. Deppoleto Jr. ("Mr. Deppoleto" or "Plaintiff"), by and through his
9 undersigned counsel, and Defendants, Takeover Industries Incorporated ("Takeover"), Tom Zarro
10 ("Zarro"), Michael Holley ("Holley"), Toby McBride ("McBride"), Joseph Pavlik ("Pavlik") and
11 NextGen Beverages, LLC ("NextGen") (collectively, the "Takeover Defendants"),¹ by and
12 through their undersigned counsel, hereby submit the following Second Stipulation for Extension
13 of Time for the Court's review:
14

15 WHEREAS, on November 9, 2023, the Court entered a Scheduling Order (ECF No. 37)
16 setting, among other deadlines: (a) May 7, 2024, as the deadline by which parties must complete
17 discovery; (b) June 6, 2024, as the date for filing of dispositive motions;

18 WHEREAS, on April 5, 2024, the Parties filed a Stipulation for Extension of Time (ECF
19 No. 71), requesting that the discovery and dispositive motion deadline be extended by 14 days;

20 WHEREAS, on April 9, 2024, the Court granted the Parties' request by Order (ECF No.
21 72), setting: (a) May 21, 2024, as the deadline by which the Parties must complete discovery; and
22 (b) June 20, 2024, as the date for filing dispositive motions;

23 WHEREAS, in light of the continued settlement negotiations among the Parties, the Parties
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27 ¹ Plaintiff and the Takeover Defendants may be referred to as the "Parties."
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1 have met and conferred and agree to extend the discovery and case dispositive motion deadlines
2 by 14 days each, such that;

3 (a) Pursuant to LR 26-1(b), discovery in this action shall be completed on or
4 before June 20, 2024;

5 (b) Dispositive Motions shall be filed and served no later than July 22, 2024.

6 WHEREAS, pursuant to LR 26-3, the parties state as follows:

7
8 (a) After and in light of the Court's two recent decisions regarding the parties'
9 discovery disputes, the parties have exchanged initial written discovery,
10 followed by some supplemental responses having been produced. The
11 parties each have some discovery responses outstanding, with responsive
12 deadlines approaching in the near future. The parties have also discussed a
13 deposition schedule for the various fact witnesses, and were planning to
14 begin depositions soon.

15
16 (b) The parties need to complete responses to each other's respective discovery
17 requests, and depositions need to occur;

18 (c) The parties have been negotiating over a potential resolution, and are in
19 agreement that a short pause on discovery would be beneficial in that it
20 would allow the parties to allocate and focus resources on negotiations over
21 a potential resolution which.

22
23 (d) Since the Court granted the Parties' first stipulation, the Parties have
24 continued active settlement discussions. Given the claims at issue in this
25 lawsuit, the Parties are negotiating a very complicated potential resolution
26 that goes beyond a simple exchange of money for a settlement agreement
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1 and release and requires additional time for negotiation.

2 (e) All discovery shall be completed no later than June 20, 2024.

3 WHEREAS, undersigned counsel certifies that this is the second stipulation for extension
4 of time to file motions pursuant to LR IA 6-1.

5 IT IS HEREBY STIPULATED AND AGREED by and between the parties, through their
6 undersigned counsel and subject to the approval of the Court, that all discovery shall be completed
7 no later than June 20, 2024.
8

9 IT IS FURTHER HEREBY STIPULATED AND AGREED by and between the parties,
10 through their undersigned counsel and subject to the approval of the Court, that all case dispositive
11 motions, along with supporting briefs and other papers, if any, shall be served and filed on or
12 before July 22, 2024. Briefing will be presented pursuant to the Court's Local Rules.
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IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: 5-2-24

DATED this 30th day of April, 2024.

HUSCH BLACKWELL LLP

/s/ Patrick M. Harvey

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And

DATED this 30th day of April, 2024.

HALL & EVANS LLC

/s/ David Sexton

KURT R. BONDS, ESQ.

Nevada Bar No. 6228

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McBride, Joseph Pavlik and NextGen Beverages,
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CERTIFICATE OF SERVICE

1. On April 30, 2024, I served the following document(s): **SECOND STIPULATION FOR EXTENSION OF TIME**
2. I served the above document(s) by the following means to the persons as listed below:

☒ a. ECF System:

KURT R. BONDS on behalf of Defendants Takeover Industries Incorporated, Tom Zarro, Michael Holley, Toby McBride, Joseph Pavlik and NextGen Beverages, LLC
nvefile@hallevans.com; bondsk@hallevans.com

DAVID SEXTON on behalf of Defendants Takeover Industries Incorporated, Tom Zarro, Michael Holley, Toby McBride, Joseph Pavlik and NextGen Beverages, LLC
sextond@hallevans.com

And all other parties requesting notice.

☐ b. United States mail, postage fully prepaid:

☐ c. Personal Service:

I personally delivered the document(s) to the persons at these addresses:

☐ For a party represented by an attorney, delivery was made by handing the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.

☐ For a party, delivery was made by handling the document(s)

1 to the party or by leaving the document(s) at the person's dwelling house or usual
2 place of abode with someone of suitable age and discretion residing there.

3 ☐ d. By direct email (as opposed to through the ECF System):
4 Based upon the written agreement of the parties to accept service by email or a
5 court order, I caused the document(s) to be sent to the persons at the email
6 addresses listed below. I did not receive, within a reasonable time after the
7 transmission, any electronic message or other indication that the transmission was
8 unsuccessful.

9 ☐ e. By fax transmission:

10 Based upon the written agreement of the parties to accept service by fax
11 transmission or a court order, I faxed the document(s) to the persons at the fax
12 numbers listed below. No error was reported by the fax machine that I used. A copy
13 of the record of the fax transmission is attached.

14 ☐ f. By messenger:

15 I served the document(s) by placing them in an envelope or package addressed to
16 the persons at the addresses listed below and providing them to a messenger for
17 service.

18 I declare under penalty of perjury that the foregoing is true and correct.

19 Dated: April 30, 2024.

20 By: /s/ Patrick M. Harvey